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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,065	02/13/2002	William Eugene Moser	47440-044001	7475
7590 Stephen T. Scherrer McDermott, Will & Emery 227 West Monroe Street Chicago, IL 60606-5096				
EXAMINER				
ABEL JALIL, NEVEEN				
ART UNIT		PAPER NUMBER		
2165				
MAIL DATE		DELIVERY MODE		
04/13/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/075,065

**Applicant(s)**

MOSER ET AL.

**Examiner**

NEVEEN ABEL JALIL

**Art Unit**

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28-January -2009 has been entered.
2. The amendment filed on 25-November -2008 has been received and entered. Claims 1-11 are still pending.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-5, and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529) in view of Good (U.S. Patent No. 6,477,452 B2), and further in view of KIDD et al. (U.S. Pub. No. 2002/0013685 A1).

As to claim 1, Gibbs discloses a method for inspecting rail equipment and storing information relating to the inspection comprising:

providing rail equipment having a plurality of parts (See Gibbs column 3, lines 4-30);

inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment (See Gibbs column 16, lines 5-67, also see Gibbs column 4, lines 1-37);

providing a data entry system comprising a plurality of fields (See Gibbs column 15, lines 15-58, also see Gibbs column 16, lines 47-54, wherein “damage condition” reads on “mechanical failure”);

generating at least one report showing an overall damage condition of the rail equipment that is calculated from the information input into the data entry system (See Gibbs column 18, lines 1-67, also see Gibbs column 21, lines 1-41, and see Gibbs column 9, lines 31-56); and

providing a database interconnected with the data entry system for storing information input into the data entry system or generated by the data entry system (See Gibbs column 10, lines 26-36, and see Gibbs column 7, lines 18-47, and see Gibbs column 8, lines 42-66).

Gibbs shows:

monitoring and storing performance and status of railway equipment (See figure 9C, also see column 22, lines 1-30);

reporting capability on selected conditions related to rail equipment or entire train (See figure 9C, also see column 22, lines 1-30);

tracking and reporting (computerized train control map) of rail equipment conditions (whether locomotive is dead or isolated, and mechanical failure codes);

Gibbs does not expressly show

querying a user of the data entry system for information relating to the damage condition of each off the parts of the rail equipment;

entering information related to the damage condition of each of the parts of the rail equipment in to each of the plurality of fields;

wherein the plurality of dispositions includes not repairing the rail equipment, repairing the rail equipment using a mobile repair unit and repairing the rail equipment at a repair facility, wherein the mobile repair unit is a vehicle equipped to provide mechanical services to the rail equipment without requiring the rail equipment to be moved to a repair facility. However, Gibbs's reference as a whole teaches a computer aided dispatch system column 4, lines 42-45 in accordance with problem flag column 11, line 4, a tag status, an activity and an owner (i.e. dispatch unit crew) column 11, lines 31-33 under the command of the dispatcher column 7, lines 10-12, as well as data entry system in column 2, lines 38-67.

Good teaches querying a user of the data entry system for information relating to the damage condition of each off the parts of the rail equipment (See Good column 8, lines 37-47);

entering information related to the damage condition of each of the parts of the rail equipment in to each of the plurality of fields (See Good Figure 4, shows damage status database with multiple fields, and see Good column 7, lines 40-50);

wherein the plurality of dispositions includes not repairing the rail equipment, repairing the rail equipment using a mobile repair unit and repairing the rail equipment at a repair facility, wherein the mobile repair unit is a vehicle equipped to provide mechanical services to the rail equipment without requiring the rail equipment to be moved to a repair facility (See Good column 8, lines 45-57, wherein the use of "MRU" is taught, wherein it is not only inherent but obvious that if repairs are not needed or they have just been completed then the disposition

would be “not repairing the rail equipment”, Good teaches repair shop as a location in column 2, lines 35-37 thus reads on “repairing the rail equipment at a repair facility”); and

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Gibbs with Good to include querying a user of the data entry system for information relating to the damage condition of each of the parts of the rail equipment; entering the damage condition of each of the parts of the rail equipment in to each of the plurality of fields; providing a plurality of dispositions for the rail equipment wherein the plurality of dispositions includes not repairing the rail equipment, repairing the rail equipment using a mobile repair unit and repairing the rail equipment at a repair facility, wherein the mobile repair unit is a vehicle equipped to provide mechanical services to the rail equipment without requiring the rail equipment to be moved to a repair facility; and automatically assigning a plurality of dispositions, wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system for the rail equipment and assigning one of the plurality of dispositions to the rail equipment because it provides for flexibility and minimization of rail equipment downtime (See Good column 1, lines 25-40) it is obvious that once the condition is determined then a repairation process will be assigned.

Gibbs as modified still does not expressly show based on the overall damage condition of the rail equipment.

However, Gibbs's reference as a whole teaches the overall damage condition of the rail equipment (i.e. to provide and assign plurality of status conditions, and setting alert status to dispatch a repair unit) having any type of content because Gibbs is directed to railroad transportation monitoring and management system and method by detecting, assigning status,

and monitoring a set of real time identification, and display characteristics for the set of transports within the transportation network and generating an output display characterizing relationships between the set of transports based on the information collected in the monitoring step (See Abstract).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the teachings of Gibbs as modified to include the overall damage condition of the rail equipment because it provides a method for faster assistance, and more efficiently repairing of rail equipment (i.e. it is common to look at the over condition and then break it down part by part).

The combined references still are not specific to assignment of disposition automatically by the data system entry (although automating a known process is an obvious variation as supported by MPEP 2144.04). Although, Good in column 7, lines 25-50, and column 14, lines 25-37 teach assigning dispositions to rail equipment.

Nevertheless, KIDD et al. has been introduced to show such teachings and specifically: assignment of disposition automatically by the data system entry based on the overall damage condition (See paragraph 0008, paragraph 0087, paragraph 0091, and paragraph 0097).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the teachings of Gibbs as modified to include assignment of disposition automatically by the data system entry based on the overall damage condition because not only is it well known to automate a manual process but it also provides for faster and more robust reporting of equipment conditions for efficiency and upkeep.

As to claims 3, Gibbs as modified discloses wherein the data entry system stores information relating to a plurality of types of railcars (See Gibbs column 3, lines 4-30).

As to claim 4, Gibbs as modified discloses wherein the railcars are selected from the group consisting of box cars, flat cars, hopper cars, general purpose tank cars, open top hopper and gondola cars, plastic pellet cars, pressure differential cars and pressure tank cars (See Gibbs column 16, lines 13-51).

As to claim 5, Gibbs as modified discloses wherein the report comprises information related to whether the rail equipment must be repaired or whether the rail equipment is useable in its present state (See Gibbs column 10, lines 62-67, and see Gibbs column 11, lines 34, also see Gibbs column 16, lines 35-67, and see Gibbs column 17, lines 1-24).

As to claim 8, Gibbs as modified discloses assigning a damage indicator for each part of the rail equipment (See Gibbs column 2, lines 18-67, wherein “damage indicator” reads on “detection signals”, also see Gibbs column 10, lines 62-67, and see Gibbs column 11, lines 1-5); and

inputting the damage indicator for each part of the rail equipment into the data entry system (See Gibbs column 19, lines 4-59).

As to claim 9, Gibbs as modified discloses adding information into the data entry system relating to the inspector of the rail equipment (See Gibbs column 1, lines 60-67, and see Gibbs



column 2, lines 1-17).

As to claim 10, Gibbs as modified discloses wherein the information further comprises the identity of the rail equipment (See Gibbs column 3, lines 4-30, also see Gibbs column 10, lines 46-67, and see Gibbs column 11, lines 1-62).

As to claim 11, Gibbs as modified discloses selecting a record of rail equipment from the database (See Gibbs column 2, lines 38-67);

editing information on the record of the rail equipment (See Gibbs column 10, lines 26-36, and see Gibbs column 7, lines 18-47, and see Gibbs column 8, lines 42-66); and  
saving the information to the database (See Gibbs column 10, lines 26-36).

5. Claims 2, and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529) in view of Good (U.S. Patent No. 6,477,452 B2), and further in view of Jarrett (U.S. Patent No. 6,345,257 B1), and further in view of KIDD et al. (U.S. Pub. No. 2002/0013685 A1).

As to claim 2, Gibbs as modified still does not teach wherein the report comprises information relating to an estimated cost of repair of the rail equipment.

Jarrett teaches wherein the reports comprise information relating to an estimated cost of repair of the rail equipment (See Jarrett column 15, lines 27-67).

Therefore, it would have been obvious to a person having ordinary skill in the art at the

time of the invention was made to have further modified Gibbs as modified to include wherein the reports comprise information relating to an estimated cost of repair of the rail equipment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include wherein the reports comprise information relating to an estimated cost of repair of the rail equipment because showing the cost associated with repair allows for better business management and ultimately cost reduction for the corporation.

As to claim 6, Gibbs as modified still does not teach wherein the report further comprises information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shipped.

Jarrett teaches wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shipped (See Jarrett column 1, lines 46-67, also see Jarrett abstract).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shipped.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shipped because it

allows for quicker and efficient response time to problem reporting thereby cutting operational business costs.

As to claim 7, Gibbs as modified still does not teach printing blank forms relating to the rail equipment from the data entry system.

Jarrett teaches printing blank forms relating to the rail equipment from the data entry (See Jarrett column 7, lines 63-67, and see Jarrett column 8, lines 1-13).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include printing blank forms relating to the rail equipment from the data entry.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include printing blank forms relating to the rail equipment from the data entry because it allows for accommodation of user preferences and customization and provides for availability of on the spot trouble data entry means for maintenance/inspection crew.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. For complete list of relevant art, see PTO-form 892.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neveen Abel-Jalil  
Primary Examiner  
April 8, 2009

/Neeven Abel-Jalil/

Primary Examiner, Art Unit 2165